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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/788,348	02/21/2001	Won-Woo Lee	P56299	1062

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Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington, DC 20005

EXAMINER	
BECKER, DREW E	

ART UNIT	PAPER NUMBER
1761	7

DATE MAILED: 02/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/788,348	Applicant(s) LEE ET AL.
	Examiner Drew E Becker	Art Unit 1761

#7

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 November 2002* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *27-38 and 40-61* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *36-38,40-48 and 51* is/are allowed.

6)☒ Claim(s) *27-35,49,50,52-54 and 56-60* is/are rejected.

7)☒ Claim(s) *55 and 61* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 49-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 49 recites "said step of diffusing said second aroma comprising... to diffuse said third aroma". It is not clear whether the second and third aromas are different, or merely the same aroma. Also, there is insufficient antecedent basis for "said third aroma" in the claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 27-30, 32-35, and 52-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacLean IV as applied above, in view of Watkins [Pat. No. 5,591,409].

MacLean IV teaches a method of cooking comprising a plurality of aroma storage units in the form of unpopped popcorn kernels held in a reservoir (column 8, line 66), making a selection from a menu (column 9, lines 11-20), generating an aroma corresponding to that food and continuing diffusion of the aroma after it has been cooked (column 8, line 25), diffusing the aroma before cooking (column 9, line 25), intermittent diffusion (column 9, lines 25-28), terminating diffusion after cooking by grinding the unused popcorn (column 9, line 29-31), an aroma storage unit with an aroma substance (column 4, lines 55-67), a nozzle (column 4, line 67), a cooking chamber (Figure 1, 48), a parts chamber (Figure 2, 42), dispersing the aroma outside of the device as well as in the cooking chamber (column 5, line 29), the aerosol nozzle inherently being rotatable (column 4, line 67). MacLean IV does not recite selecting an aroma, mixing different aromas, providing the aroma storage unit in the parts chamber with passageways out of it, and plural nozzles. Watkins teaches a method of providing aromas comprising plural aroma storage units and mixing of the aromas (Figure 1, 5; column 4, lines 35-44), providing the aroma storage unit in the parts chamber with passageways out of the parts chamber (Figure 1, 7 & 9), and multiple nozzles (Figure 1, 8). It would have been obvious to one of ordinary skill in the art to incorporate the aroma mixing, passageways, and nozzles of Watkins into the invention of MacLean IV since both are directed to aroma generating methods, since MacLean IV already teaches the use of a "solenoid which periodically acts to depress the nozzle/actuator of an aerosol can" (column 4, line 66) and plural aroma source in the form of unpopped popcorn kernels (column 8, line 39), since the plural aroma sources and nozzles of Watkins are in the form of aerosol

cans with nozzles which are depressed by solenoids (Figure 1, 5 & 8), and since mixing of aroma would have provided more accurate aromas as well as a greater variety of aromas which would have been more appealing to the consumer. It would have been obvious to one of ordinary skill in the art to place the aroma sources of MacLean IV in the parts chamber, in view of Watkins, since both are directed to aroma generating methods, since MacLean IV already teaches a parts chamber (Figure 2, 42), and since placing the aroma source in the parts chamber, away from the cooking chamber, would have prevented the overheating and possible explosion of the aerosol cans used by MacLean IV while still providing the necessary aromas.

6. Claims 31 and 56-60 rejected under 35 U.S.C. 103(a) as being unpatentable over MacLean IV, in view of Watkins, as applied above, and further in view of Burns [Pat. No. 5,062,272].

MacLean IV and Watkins teach the above mentioned concepts. MacLean IV and Watkins do not teach deodorizing an aroma by producing and diffusing a second aroma. Burns teaches a method of deodorizing a food handling device by removing an unwanted odor and replacing it with a fruit scent (column 2, lines 30-48). It would have been obvious to one of ordinary skill in the art to deodorizing and scent replacement of Burns into the invention of MacLean IV since both are directed to aroma generating methods, since MacLean IV already included the production and dispersion of scents (column 4, lines 55-68), and since consumers have different tastes and preferences for aromas and their interest can be increased by substituting a more pleasing aroma for the original.

Allowable Subject Matter

7. Claims 36-38, 40-48, and 51 are allowed.

8. Claims 49-50 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. Claims 55 and 61 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is an examiner's statement of reasons for allowance: the method of independent claim 36 defines over the prior art of record since the prior art of record does not teach, suggest, nor render obvious the step of moving a piston to open said first nozzle and close a second nozzle.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

11. Applicant's arguments filed November 18, 2002 have been fully considered but they are not persuasive.

Applicant argues that MacLean IV does not teach a "corresponding" aroma. However, the aroma of popcorn certainly does "correspond" to the food itself. It is not clear how an aroma could more directly "correspond" to a food, than to have that food's natural aroma.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Maclean IV teaches a method of producing aromas from a cooking device and Watkins teaches a method of producing aromas by mixing aroma sources.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 703-305-0300. The examiner can normally be reached on Monday-Thursday 7am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.

Drew E Becker
Examiner
Art Unit 1761

February 4, 2003

KEITH HENDRICKS
PRIMARY EXAMINER